

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HELEN HANKS, on behalf of herself and all others
similarly situated,

Plaintiffs,

vs.

THE LINCOLN LIFE & ANNUITY COMPANY
OF NEW YORK; VOYA RETIREMENT
INSURANCE AND ANNUITY COMPANY,
formerly known as Aetna Life Insurance and
Annuity Company,

Defendants.

Civil Action No. 16-cv-6399

**DECLARATION OF MOTTY SHULMAN IN SUPPORT OF
VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY'S
MOTION FOR SUMMARY JUDGMENT**

I, Motty Shulman, hereby declare as follows:

1. I am a member in good standing of the bar of this Court, an active member of the State Bar of New York, a partner in the law firm of Boies Schiller Flexner LLP, and counsel of record for Defendant Voya Retirement Insurance and Annuity Company ("VRIAC") in the above-captioned action. I have personal knowledge of the facts set forth herein.
2. I make this declaration in support of VRIAC's Motion for Summary Judgment, dated September 12, 2019.
3. Attached as Exhibit 1 is a true and correct copy of the report of Robert Mills, Plaintiffs' damages expert, dated March 1, 2018.
4. Attached as Exhibit 2 is a true and correct copy of the report of David Babbel, Defendants' damages expert, dated May 1, 2018.

5. Attached as Exhibit 3 is a true and correct copy of Plaintiff Helen Hanks's life insurance policy. Dkt. 5-1.

6. Attached as Exhibit 4 is a true and correct copy of excerpts of Exhibit 6 to the deposition of Christopher H. Hause, Plaintiff's actuarial expert.

7. Attached as Exhibit 5 is a true and correct copy of excerpts from the transcript of the August 1, 2018, deposition of Christopher H. Hause.

8. Attached as Exhibit 6 is a true and correct copy of the report of Christopher H. Hause, dated March 1, 2018.

9. Attached as Exhibit 7 is a true and correct copy of Plaintiff Helen Hanks's life insurance illustration, dated August 2016. LN_HANKS00000191.

10. Attached as Exhibit 8 is a true and correct copy of the report of Timothy C. Pfeifer, dated May 1, 2018, Defendants' actuarial expert.

11. Attached as Exhibit 9 is a true and correct copy of a document titled "Written Action of the Board of Directors of Voya Retirement Insurance and Annuity Company." VRIAC_HANKS0007468.

12. Attached as Exhibit 10 is a true and correct copy of an email exchange regarding pending NGE Changes, dated March 1, 2016. VRIAC_HANKS0007134.

13. Attached as Exhibit 11 is a true and correct copy of an email exchange regarding VRIAC Nonguaranteed Elements, dated March 29, 2016. LN_HANKS00269273.

14. Attached as Exhibit 12 is a true and correct copy of a letter from Patrick D. Lusk to Joseph P. McKinnon, Jr., dated April 22, 2016. Dkt. 28-13.

15. Attached as Exhibit 13 is a true and correct copy of a letter regarding Universal Life Non-Guaranteed Element Recommendation dated, March 9, 2016. LN_HANKS00148996.

16. Attached as Exhibit 14 is a true and correct copy of an email regarding VRIAC Nonguaranteed Elements dated March 9, 2016. VRIAC_HANKS0000946.

17. Attached as Exhibit 15 is a true and correct copy of excerpts of the deposition of Bruce W. Foudree, dated June 29, 2018, Plaintiffs' actuarial expert.

18. Attached as Exhibit 16 is a true and correct copy of excerpts of the deposition of Neil R. Pearson, dated July 12, 2018, Plaintiffs' regulatory expert.

19. Attached as Exhibit 17 is a true and correct copy of the Actuarial Standards of Practice 2 (ASOP 2).

20. Attached as Exhibit 18 is a true and correct copy of a Consent Decree, dated March 22, 2019. LN_HANKS00336059.

21. Attached as Exhibit 19 is a true and correct copy of correspondence regarding Aetna Universal Life Non-guaranteed Element Recommendations, dated February 26, 2016. LN_HANKS00038037.

22. Attached as Exhibit 20 is a true and correct copy of an e-mail exchange regarding VRIAC Nonguaranteed Elements, dated March 28, 2016. LN_HANKS00143873.

23. Attached as Exhibit 21 is a true and correct copy of correspondence to Plaintiff Helen R. Hanks regarding her life insurance policy, dated May 23, 2016. HANKS0000004.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of September, 2019.

/s/ Motty Shulman
Motty Shulman